

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alondra Payan	Team: Squad #05	CCRB Case #: 202105747	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 09/21/2021 4:04 AM, Tuesday, 09/21/2021 6:38 AM	Location of Incident: in front of § 87(2)(b)	18 Mo. SOL 3/21/2023	Precinct: 79		
Date/Time CV Reported Tue, 09/21/2021 5:55 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 09/24/2021 11:56 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Dennis Mcallister	09523	942151	079 PCT
2. POM Brian Carton	26690	966985	079 PCT
3. PO Isaac Quarshie	21243	968075	079 PCT
4. PO Sandra Melendez	22447	939801	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Dennis Mcallister	Abuse: Police Officer Dennis Mcallister failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
B.POM Brian Carton	Abuse: Police Officer Brian Carton failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
C.POM Dennis Mcallister	Abuse: Police Officer Dennis Mcallister refused to provide his name to § 87(2)(b)	§ 87(2)(b)
D.POM Brian Carton	Abuse: Police Officer Brian Carton refused to provide his name to § 87(2)(b)	§ 87(2)(b)
E.POM Dennis Mcallister	Abuse: Police Officer Dennis Mcallister threatened to issue a summons to § 87(2)(b)	§ 87(2)(b)
F.PO Isaac Quarshie	Abuse: Police Officer Isaac Quarshie failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
G.PO Sandra Melendez	Abuse: Police Officer Sandra Melendez failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
H.PO Isaac Quarshie	Abuse: Police Officer Isaac Quarshie refused to provide his name to § 87(2)(b)	§ 87(2)(b)
I.PO Sandra Melendez	Abuse: Police Officer Sandra Melendez refused to provide her name to § 87(2)(b)	§ 87(2)(b)

Case Summary

On September 21, 2021, § 87(2)(b) filed this complaint by phone with IAB, generating original log § 87(2)(b). On September 24, 2021, the CCRB received this complaint from IAB.

On September 21, 2021, at approximately 3:28 a.m., § 87(2)(b) was verbally threatened by an unknown civilian while walking his dog in the vicinity of § 87(2)(b) in Brooklyn. § 87(2)(b) called 911 to report the incident. At approximately 4:04 a.m., Police Officers Dennis Mcallister and Brian Carton from the 79th Precinct arrived. § 87(2)(b) and the officers got into an argument after they declined to investigate further or create a police report. PO Mcallister and PO Carton failed to provide § 87(2)(b) with a business card (**Allegations A-B: Abuse of Authority, § 87(2)(g)**). PO Mcallister and PO Carton refused to provide their names to § 87(2)(b) (**Allegations C-D: Abuse of Authority, § 87(2)(g)**). PO Mcallister threatened § 87(2)(b) with a summons (**Allegations E: Abuse of Authority, § 87(2)(g)**). After the interaction with PO Mcallister and PO Carton, § 87(2)(b) called the 79th Precinct two more times and also called the 88th Precinct. At 6:38 a.m., PO Sandra Melendez and PO Isaac Quarshie of the 79th Precinct arrived at § 87(2)(b) in Brooklyn. PO Melendez and PO Quarshie allegedly failed to provide their business cards to § 87(2)(b) (**Allegations F-G: Abuse of Authority, § 87(2)(g)**). PO Melendez and PO Quarshie allegedly refused to provide their names to § 87(2)(b) (**Allegations H-I: Abuse of Authority, § 87(2)(g)**).

The investigation obtained BWC footage from PO Mcallister and PO Carton (BR 01-02, summarized at BR 03-04). § 87(2)(b) also provided cellphone footage of the incident (BR 05-06, summarized at BR 20-21). All references to video evidence below refer to the time-stamp in the video player, and not to any on-screen clock embedded in the footage itself. The second interaction with PO Quarshie or PO Melendez did not require the use of BWC as per the Patrol Guide (BR 07).

On January 4, 2022, this case was reassigned from Inv. Emmitt Sklar to the undersigned after Inv. Sklar's departure from the CCRB.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Dennis Mcallister failed to provide § 87(2)(b) with a business card.

Allegation (B) Abuse of Authority: Police Officer Brian Carton failed to provide § 87(2)(b) with a business card.

Allegation (C) Abuse of Authority: Police Officer Dennis Mcallister refused to provide his name to § 87(2)(b)

Allegation (D) Abuse of Authority: Police Officer Brian Carton refused to provide his name to § 87(2)(b)

§ 87(2)(b) testified (BR 08-09) that PO Mcallister began to yell at him when he asked for business cards because he wanted to document the presence of officers. Both PO Mcallister and PO Carton told § 87(2)(b) they did not have business cards. § 87(2)(b) then asked for their names, and they began to walk away. Both PO Mcallister and PO Carton told § 87(2)(b) they did not have to disclose their names. As PO Mcallister and PO Carton walked to their police vehicle, § 87(2)(b) followed behind. § 87(2)(b) continued to ask for their business cards and their names as they walked. PO Carton told § 87(2)(b) he would give him a business card, which confused § 87(2)(b) because PO Carton had previously said he did not have business cards on him. However, PO Carton did not provide § 87(2)(b) with a business card, and instead he and PO Mcallister turned off their BWCs and got inside the police vehicle. § 87(2)(b) asked why they turned off their BWCs. As PO Mcallister

and PO Carton drove away, § 87(2)(b) once again asked if he could have a business card. Neither PO Mcallister nor PO Carton provided a business card to § 87(2)(b).

PO Carton's BWC (BR 01 at 06:00) captured the relevant portion of the incident. After arguing with § 87(2)(b) the officers say they are leaving. § 87(2)(b) replies, "No, no, no. I'd like names. I want business cards or whatever it is." PO Mcallister tells § 87(2)(b) that he will be given a business card. § 87(2)(b) and PO Mcallister continue to argue, and PO Mcallister again tells him that he will be given a business card. At 06:42, § 87(2)(b) says, "I'm just trying to get your names and go inside." PO Mcallister merely bids § 87(2)(b) goodnight and tells him to go inside, and both officers walk toward their vehicle. § 87(2)(b) again says, "I would just like to get names." PO Mcallister says, "Nope, goodnight," and walks away. Neither PO Mcallister nor PO Carton provide a business card or their names to § 87(2)(b). The footage did not appear to show § 87(2)(b) get closer to PO Mcallister or PO Carton at any point. § 87(2)(b) does not sound incoherent in the footage.

§ 87(2)(b) cell phone footage (BR 06) shows him several feet away from PO Mcallister and PO Carton as he says, "I need the business card and they're not recording. They turned their cameras off." PO Mcallister responds by telling § 87(2)(b) to go back in his yard. § 87(2)(b) backs away from PO Mcallister and PO Carton and is now several feet away when he says, "May I please have a business card?" § 87(2)(b) points out that he is now back in his yard and again asks, "May I please have a business card?" Neither officer responds, and they enter their car and leave the scene.

PO Mcallister acknowledged that, toward the end of the interaction, § 87(2)(b) specifically said, "Names or business cards" (BR 10). PO Mcallister instructed PO Carton to give § 87(2)(b) a business card. PO Mcallister never provided his name to § 87(2)(b) because he asked PO Carton to give a business card and, in his understanding, it is acceptable for just one officer to provide a business card. PO Mcallister testified that § 87(2)(b) was verbally aggressive, and he believed § 87(2)(b) was intoxicated based on § 87(2)(b) speech being incoherent. Nothing else indicated to PO Mcallister that § 87(2)(b) was intoxicated. PO Mcallister had safety concerns because § 87(2)(b) was intoxicated and could have weapons on him. PO Mcallister did not expand on why he thought § 87(2)(b) might have a weapon on him. PO Mcallister told PO Carton it was best to leave § 87(2)(b) alone. After watching video footage, PO Mcallister testified that he did not provide § 87(2)(b) with a business card because § 87(2)(b) was closing up on him and was a threat. PO Mcallister initially testified that § 87(2)(b) was obstructing governmental administration (OGA), but he later clarified that § 87(2)(b) did not commit OGA but would have committed it if he had come closer to the officers.

PO Carton similarly confirmed that § 87(2)(b) requested a business card (BR 11). PO Carton reached to retrieve one from his jacket pocket, but then § 87(2)(b) moved within arm's reach of him. PO Carton did not know why § 87(2)(b) was so close to him. PO Carton did not give a card to § 87(2)(b) because he feared for his safety and did not know if § 87(2)(b) was armed. He did not observe any bulges on § 87(2)(b) person and did not have any other indications that § 87(2)(b) was armed. PO Carton remembered PO Mcallister instructing him to give a business card to § 87(2)(b) but he could not recall when during the incident that took place. PO Carton testified generally that he also does not provide business cards to people who are uncooperative. PO Carton also testified that § 87(2)(b) seemed intoxicated based on his demeanor but did not elaborate further. He could not recall if § 87(2)(b) requested his name or PO Mcallister's name. After watching the video footage, PO Carton maintained that he was not able to give his business card to § 87(2)(b) because § 87(2)(b) got too close to him. Specifically in reference to the cellphone footage, PO Carton said that he did not give a business card to § 87(2)(b) at that point because he was already walking back to this car, and he feared for his safety and did not want to get closer to § 87(2)(b).

§ 87(2)(g)

Officers are required to courteously and clearly state their rank, name, shield number and command, or otherwise provide them, to anyone who requests they do so. Patrol Guide Procedure 203-09 (BR 13). New York City Administrative Code §14-174 outlines the circumstances in which officers are required to offer a business card to the subjects of certain “law enforcement activities,” provided the subject is not arrested or issued a summons as a result of the activity (BR 12). The statute also requires that officers offer a business card to any person requesting identifying information or provide such information verbally and allow the person sufficient time to record the information. Officers are not required to offer business cards when exigent circumstances require immediate action or when they reasonably expect they are in danger of physical injury.

It is clear that § 87(2)(b) requested the officers’ names and business cards multiple times, that the officers heard those requests, and that the officers decided not to comply. Nothing prevented the officers from complying, and the evidence does not support their claims that they feared for their safety or reasonably concluded that there was an imminent danger of physical injury. § 87(2)(g)

Allegation (E) Abuse of Authority: Police Officer Dennis Mcallister threatened to issue a summons to § 87(2)(b)

It is undisputed that PO Mcallister threatened to issue a summons to § 87(2)(b)

§ 87(2)(b) testified he told PO Mcallister and PO Carton he would film them and then began recording from behind the entrance gate of his apartment building. PO Mcallister exited the police vehicle and told § 87(2)(b) to get back inside his apartment and lock his door or he would give him a summons.

The BWC footage did not capture PO Mcallister’s threat. § 87(2)(b) cellphone footage (BR 06, beginning at 00:00) shows PO Mcallister ordering § 87(2)(b) to go into his yard, and then responding to § 87(2)(b) requests for a business card by saying, “This is gonna be final. I’m gonna give you a summons.”

PO Mcallister did not recall telling § 87(2)(b) he would issue him a summons, and he initially testified that § 87(2)(b) was not acting in any way that would constitute a violation or warrant a summons. After viewing § 87(2)(b) cellphone footage, PO Mcallister testified he believed § 87(2)(b) was committing OGA because § 87(2)(b) was “closing in on him.” PO Mcallister later clarified that § 87(2)(b) did not commit OGA, but that he would have been committing OGA if he had been closer to PO Mcallister.

A person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act, or by means of interfering, whether or not physical force is involved. NY Penal Code 195.05 (BR 14).

The evidence indicates that § 87(2)(b) did not commit OGA. He was at most filming the officers from the sidewalk or his building’s front gate while continuing to ask them to provide their identifying information and business cards. He was not overly close to the officers or physically

preventing them from taking any actions, and indeed he complied with their order to move farther away from them. PO Mcallister admitted as much in his testimony, as he said that § 87(2)(b) did not actually commit OGA, and merely that he would have been committing OGA had he been closer to PO Mcallister. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (F) Abuse of Authority: Police Officer Isaac Quarshie failed to provide § 87(2)(b) with a business card.

Allegation (G) Abuse of Authority: Police Officer Sandra Melendez failed to provide § 87(2)(b) with a business card.

Allegation (H) Abuse of Authority: Police Officer Isaac Quarshie refused to provide his name to § 87(2)(b)

Allegation (I) Abuse of Authority: Police Officer Sandra Melendez refused to provide her name to § 87(2)(b)

As noted above, PO Quarshie and PO Melendez responded and interacted with § 87(2)(b) more than two hours after PO Mcallister's and PO Carton's departure. § 87(2)(b) spoke with PO Quarshie and PO Melendez about the prior incident. § 87(2)(b) wanted to make sure he got PO Quarshie's and PO Melendez's name since he did not get PO Mcallister's and PO Carton's. § 87(2)(b) asked PO Quarshie and PO Melendez for their business cards. PO Quarshie said he did not have a business card and asked § 87(2)(b) why he needed their names. PO Melendez also confirmed she did not have a business card but said she could provide § 87(2)(b) with her name. § 87(2)(b) took out his cellphone to type PO Quarshie's and PO Melendez's names, but PO Melendez began to ask for § 87(2)(b) date of birth. Before § 87(2)(b) was able to follow up on obtaining PO Quarshie's and PO Melendez's names, PO Quarshie and PO Melendez received an urgent call that requested officers to a scene. PO Quarshie and PO Melendez began to walk away from § 87(2)(b) at this point. § 87(2)(b) did not feel like chasing after PO Quarshie and PO Melendez to obtain their names.

PO Quarshie recounted that § 87(2)(b) was acting erratic, nervous, and jittery during the entire interaction (BR 15). PO Quarshie did not recall § 87(2)(b) asking him for his name or for a business card, and he did not recall refusing to provide either to § 87(2)(b). PO Quarshie did not recall if he provided his name to § 87(2)(b) during the incident, but he would have provided it if § 87(2)(b) had asked. He also testified that he generally would provide a business card to anyone that asked for one. PO Quarshie did not recall telling § 87(2)(b) he did not have a business card. PO Quarshie did not think PO Melendez ever said anything to § 87(2)(b).

PO Melendez did not recall much of the incident. PO Melendez did not recall § 87(2)(b) asking her or PO Quarshie for a business card (BR 16). PO Melendez did not recall telling § 87(2)(b) she did not have a business card. She did not recall refusing to provide a business card to § 87(2)(b) or recall refusing to provide her name to § 87(2)(b). PO Melendez did not recall interacting with § 87(2)(b). During her CCRB interview, PO Melendez relied on her memo book for information.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 17).

